

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

10/20/22

04:59 PM

A2210023

Application A.22-10-XXX
(October 20, 2022)

Application of the Mussey Grade
Road Alliance for award of
intervenor compensation for
substantial contributions to
Resolutions SPD-1 and SPD-2

**MUSSEY GRADE ROAD ALLIANCE APPLICATION FOR INTERVENOR
COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO
RESOLUTIONS SPD-1 AND SPD-2**

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Dated: October 20, 2022

1. INTRODUCTION

Pursuant to Rules 1.5 through 1.10, 1.15, 2.1, and 17.1 through 17.4 of the Rules of Practice and Procedure and Section IV of the Intervenor Compensation Program Guide, the Mussey Grade Road Alliance (MGRA or Alliance), files this application for intervenor compensation for substantive contributions to Commission resolutions SPD-1 and SPD-2 concerning the review and approval of the 2022 Wildfire Mitigation Plans (WMPs) for San Diego Gas and Electric Company (SDG&E) and Southern California Edison (SCE).

2. HISTORY

Public Utilities Code Section 8386 requires each electrical corporation to annually prepare and submit a Wildfire Mitigation Plan to the Office of Energy Infrastructure Safety (Energy Safety or OEIS) for review and approval. Originally begun under the auspices of the Commission, first its Safety and Enforcement Division (SED) in 2019 and its Wildfire Safety Division in 2020 and 2021, responsibility for Wildfire Mitigation Plan review was transferred to Energy Safety by the Legislature as per California Government Code Section 15475 effective July 1, 2021. Public Utilities Code 8386.3(a) requires that the action of the OEIS be ratified by the Commission. Section 8386(d) directs the OEIS to post all plans and annual updates and to accept comments from the public, state and local agencies, and interested parties.

The Alliance has been involved in the issue of utility wildfire prevention at the CPUC since 2007. We were contributors to the 2019, 2020, and 2021 Wildfire Mitigation Plan reviews and provided substantive feedback on subsequent utility quarterly reports and data releases, which contributed to the 2021 Wildfire Mitigation Plans. MGRA is currently engaged in the PSPS rulemaking (R.18-12-005), RDF proceeding (R.20-07-013), the PG&E RAMP and GRC (A.20-06-012 and A.21-06-021), the SDG&E RAMP and GRC (A.21-05-011 and A.22-05-015), and the SCE RAMP (A.22-05-013).

MGRA has received intervenor compensation for its contributions to the 2019 (D.22-04-030), 2020 (D.21-05-011), and 2021 (D.22-09-023) WMP reviews. The 2021 WMP reviews were initiated under the Wildfire Safety Division, but after July 1st, 2021 all responsibility for review and approval transferred to OEIS, and it was an OEIS draft Action Statement and Resolution for each

utility that was approved by the Commission. Hence, one matter that needed to be resolved during Commission review of MGRA's 2021 Application was "*whether an award of intervenor compensation is merited for work outside of the Commission before Energy Safety.*"¹ The Commission determined that "*Given the required ratification of the WMP disposition by the Commission, the Commission's determination of ratemaking impacts of approved WMPs, the Commission's role in enforcing WMPs, and the importance of ensuring the WMPs adhere to Commission requirements, we find as a matter of policy that it is consistent with the objectives of the statute to encourage the effective participation of intervenors in the WMP reviews at Energy Safety.*"²

Energy Safety issued its Wildfire Mitigation Plan Update Guidelines Template on December 13, 2021 after review by stakeholders, including MGRA. The Template set forth the due dates for IOU WMPs, which were staggered, and for a public comment period.

MGRA fully and actively participated in the 2022 WMP review process for SDG&E, SCE and PG&E, issuing data requests, performing a variety of technical analyses, and writing comments and reply comments for the OEIS review. Energy Safety issued a Draft Decision for SDG&E's WMP on May 19, 2022, and for SCE's WMP on June 2, 2022. MGRA commented on the SCE Draft only. Final Decisions by OEIS were issued on July 5, 2022 for SDG&E and July 20, 2022 for SCE. Energy Safety issued a Revision Notice for PG&E on May 27, 2022, and as of the date of this filing the final determination regarding PG&E's WMP remains to be made.

The Commission ratified Energy Safety's SDG&E and SCE reviews on August 26, 2022, respectively as SPD-1 and SPD-2. MGRA can demonstrate that it made substantive contributions affecting the final resolutions and submits this application for intervenor compensation within 60 days of issuance of the relevant Commission determination.

¹ D.22-09-023; p. 3.

² Id.; p. 4.

3. PLEA

3.1. MGRA's Filing Meets Criteria for an Undocketed Proceeding

Resolutions adopted by the Commission are “orders and decisions” of the Commission pursuant to Section 1804(c) of the Public Utilities Code. Section 1801.3 directs that the provisions of the Public Utilities Code related to intervenor compensation “*shall be administrated in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.*” Under these provisions, contributions to a resolution to a Commission resolution are eligible for intervenor compensation.

Rules regarding intervenor compensation for undocketed proceedings are laid out in Section IV of the Intervenor Compensation Program Guide.³ The Guide requires that in order to request intervenor compensation for an undocketed proceeding, intervenors should file an application with the Commission that includes:

- An intervenor compensation claim
- Relevant NOI (notice of intent to claim intervenor compensation) information
- Copies of the draft resolutions where applicable
- All documents served by the intervenor during the proceeding

MGRA has included all documentation supporting a standard Intervenor Compensation claim as well as all documents served on stakeholders during the proceeding. MGRA also refers to SDG&E's and SCE's Wildfire Mitigation Plan Updates in its claim, and because these are large documents has provided URLs of their Energy Safety Docket locations.

³ INTERVENOR COMPENSATION PROGRAM GUIDE; April 2017; p. 27.

3.2. MGRA Work Contributing to SPD-1 and SPD-2 is Eligible for Compensation

Statutory law governing intervenor compensation requires that the Commission ensure that compensated work contribute to a Commission decision or resolution. Hence, work performed before Energy Safety (or its Commission predecessor WSD) is not inherently compensable under CPUC rules unless there is subsequently a Commission action to which that work contributes. The Alliance's work for which it claims compensation in this application meets the required criteria.

3.2.1. MGRA's work contributed to the consideration of a ratification of a resolution

MGRA contributed comment and analysis to the review of the 2022 WMPs that contributed to OEIS's Draft Decision regarding those plans, as will be demonstrated in the present application. In D.21-03-013, the Commission found that "*Sections 1801-1812 set forth the requirements for intervenor compensation, including that an intervenor must contribute to the Commission's consideration of a decision or ratification of a resolution.*"⁴

The OEIS Final Decisions regarding Energy Safety's review of the SDG&E and SCE WMPs were ratified by the Commission as Resolutions SPD-1 and SPD-2. These resolutions incorporated the OEIS Final Decisions into their text as attachments, incorporating them into the Commission's work product. As shown in our claim, these resolutions make numerous references to MGRA contributions, clearly demonstrating that MGRA contributed to SPD-1 and SPD-2.

3.2.2. MGRA is eligible for compensation under Rule 17.4(d) of the Rules of Practice and Procedure

Rule 17.4(d) of the Rules of Practice and Procedure states that: "*The request for compensation may include reasonable costs of participation in the proceeding that were incurred prior to the start of the proceeding.*"

Rule 17 does not specify where or what forum the intervenor's cost was incurred prior to the start of the proceeding. It does not contain any language that excludes "reasonable costs" for work

⁴ p. 9.

before another state agency. The intent of Rule 17.4(d) is to allow intervenors to be compensated for work that contributes to and becomes part of the work product of a proceeding, even if that work occurred prior to the initial start of the proceeding.

MGRA's work for which we are requesting compensation occurred during the WMP review process overseen by Energy Safety. This work occurred prior to the issuance of Energy Safety's Final Decision, which put the matter before the Commission. There is no "proceeding" per se, but MGRA's work contributing to SPD-1 and SPD-2 occurred prior to the Commission's ratification procedure, and so MGRA relies on Rule 17.4(d) for its claim for compensation.

3.2.3. Review of the WMPs is essential to the Commission performing its statutory duties

The Commission reviewed MGRA's intervenor compensation claims in consolidated proceedings A.21-08-016, A.21-09-023, and A.21-11-022. In its decision granting compensation to MGRA, D.22-09-023, the Commission evaluated whether intervenor compensation work performed before Energy Safety is eligible for compensation:

*"In this application, the Commission evaluates whether an award of intervenor compensation is merited for work outside of the Commission before Energy Safety. We recognize the statutory WMP approval scheme creates interrelated roles for the Commission and Energy Safety. In ratifying the Action Statement, we recognize the importance of intervenor comments to the Action Statement within the Energy Safety proceeding."*⁵

The Decision concludes:

"In short, the Pub. Util. Code has created a complex and interrelated regulatory scheme to address utility wildfire risks. The work of the Commission and Energy Safety is dependent upon and informs each other, and the participation of intervenors in the WMP reviews at Energy Safety is essential to assisting the Commission in performing its statutory duties. Given the required ratification of the WMP disposition by the Commission, the Commission's determination of

⁵ D.22-09-023; p. 3.

*ratemaking impacts of approved WMPs, the Commission’s role in enforcing WMPs, and the importance of ensuring the WMPs adhere to Commission requirements, we find as a matter of policy that it is consistent with the objectives of the statute to encourage the effective participation of intervenors in the WMP reviews at Energy Safety.”*⁶

3.2.4. Discussion

In most regards, the present application submitted by MGRA poses identical issues to that of its 2021 submission, and therefore should be evaluated in an identical fashion. The sole difference between these proceedings is that in 2021, MGRA’s WMP comments were submitted to the CPUC’s Wildfire Safety Division, which then transitioned to the Office of Energy Infrastructure Safety on July 1, 2021 (PUC Code 326(b)). This fact should have no relevance to the current application, because:

- There is nothing in Rule 17.4(d) that specifies in what forum work prior to a proceeding must occur.
- Decision D.21-03-013 denied compensation for work before the Commission’s WSD, not OEIS. The denial was due the fact that the claimed work did not contribute to a Commission resolution or decision. MGRA’s work, in contrast, contributed to Commission resolutions.
- The Commission has decided that it wishes to “*encourage the effective participation of intervenors in the WMP reviews at Energy Safety.*”

MGRA’s application therefore meets all statutory requirements and furthers the Commission’s goal of encouraging the effective intervenor participation in WMP reviews at Energy Safety and therefore MGRA’s compensation claim should be evaluated on its merits.

3.3. Consolidation with MGRA’s PG&E WMP application may be appropriate

In 2021, MGRA, for the sake of efficiency, requested that its applications for intervenor compensation for SDG&E, SCE, and PG&E be consolidated. MGRA’s comments generally applied to all three utilities, and the work for all three has been tracked on a common timesheet. We

⁶ Id.; p. 4.

thought it would be needlessly duplicative for the Commission to manage all three applications separately, particularly if different staff were assigned to each proceeding. MGRA's request for consolidation was granted, and resulted in D.22-09-023.

Because resolutions SPD-1 and SPD-2 were issued on the same day, MGRA is filing its claim for compensation based on its contributions to these proceedings in a single application. PG&E, on the other hand, had extensive revisions required by OEIS, and final disposition of its WMP will not be ready within the next weeks. It is likely that MGRA's application for compensation for review of the 2022 WMP will not be filed until the beginning of 2023. Consolidation, therefore, could lead to some delay in MGRA's compensation claims being reviewed.

Nevertheless we would like to bring the Commission's attention to the fact that the PG&E claim, when it is filed, will in many general aspects be similar to the current application and will rely on the same source materials. Therefore if the Commission wishes to consolidate these proceedings, MGRA will not object, however we do have concerns regarding the potential delay in the review of our application. If the Commission does not wish to consolidate the proceedings, it should consider assigning the same staff to review MGRA's PG&E WMP application that is assigned to the present application for the sake of efficiency and consistency.

MGRA is including as attachments to our application:

- Certificate of service
- A notice of intent to claim intervenor compensation
- An intervenor compensation claim
- SDG&E Timesheet for Alliance expert Joseph W. Mitchell, Ph.D.
- SCE Timesheet for Alliance expert Joseph W. Mitchell, Ph.D
- MGRA comments on 2021 WMPs for PG&E, SCE, and SDG&E, including all data requests (one document)
- MGRA reply comments and revision comments for 2021 WMPs of PG&E, SCE, and SDG&E
- MGRA comments on quarterly reports for PG&E, SCE, and SDG&E.

3.4. MGRA will need a determination of eligible customer status and significant financial hardship

As per the instructions in the Intervenor Compensation Program Guide, MGRA is attaching a Notice of Intent to Claim Intervenor Compensation to this application. MGRA is requesting a ruling on its eligible customer status and significant financial hardship as part of this proceeding. The last proceeding in which findings of eligible customer status and significant financial hardship of MGRA were made was R.20-07-013 and the ruling date was 12/16/2020. Previous proceedings in which MGRA has been ruled to be a eligible customer and had a finding of significant financial hardship are A.06-08-010, A.08-12-021, R.08-11-005, A.09-08-021, R.13-11-006, I.16-10-015, and I.15-08-019. Requests for determination have also been submitted by MGRA in the NOIs of proceedings A.22-05-013, A.22-05-015, A.21-06-021, and A.20-06-012 (closed), but these determinations have not yet been acted upon as of the filing date of this application.

3.5. MGRA is Requesting Compensation for Work Performed Prior to Issuance of WMPs

MGRA is requesting compensation for work performed prior to the issuance of the 2022 WMPs under Rule 17.4(d) of the Rules of Practice and Procedure. MGRA has received compensation for prior contribution in D.15-02-021, which found MGRA eligible for compensation for work performed outside of a docketed Commission proceeding that later contributed to a Commission decision in a docketed proceeding based on a claim under Rule 17.4(d).⁷

In D.22-09-023, the Commission found that work performed by MGRA prior to the issuance of the utility WMPs was ineligible for intervenor compensation. The Decision made the following finding:

“Comments on filings related to the 2020 WMPs are not compensable as they were not within the scope of the proceeding leading to Res. WSD-019, WSD-020, or WSD-021 or the Action Statements ratified in those cases. Such activity is not a reasonable [sic] of advanced cost of participation in the 2021 WMP Updates for purposes of Rule 17.4(d).”⁸

⁷ D.15-02-021; pp. 2, 5-6.

⁸ p. 7.

MGRA maintains it would be erroneous to exclude prior work if it can be demonstrated that such work contributed to a subsequent Commission resolution or decision as per Rule 17.4(d), and therefore MGRA requests that the Commission consider its work done prior to the date of issuance of the 2022 WMPs for compensation.

Rule 17.4(d) states that:

“The request for compensation may include reasonable costs of participation in the proceeding that were incurred prior to the start of the proceeding.”

Accordingly, MGRA has filed an Application for Rehearing of D.22-09-023⁹ in order that this error be corrected.

3.5.1. MGRA’s work prior to WMP issuance contributes to the Commission resolutions

Generally, work prior to the issuance of the WMPs can contribute to the final Commission product in several ways:

- During the quarterly report review process, utilities, stakeholders, and OEIS have an opportunity to influence how issues that were raised in the prior year’s WMP will be addressed in the subsequent WMPs.
- Quarterly review comments can be addressed directly by utilities in the subsequent year’s WMPs.
- Quarterly review comments can be incorporated directly into OEIS’s review of the utility’s progress, as review of the prior year’s issues is part of the WMP review process.
- Meetings organized by OEIS provide an opportunity for stakeholders to directly influence the utility WMPs and OEIS’s review of the WMPs.

An example from MGRA’s 2022 compensation claim is:

⁹ A.22-10-XXX; MUSSEY GRADE ROAD ALLIANCE APPLICATION FOR REHEARING OF DECISION 22-09-023; October 19, 2022. (Rehearing Application)

- In SPD-2, the Commission states:

“MGRA comments that, while SCE provided further technical explanation of its machine-learning model in its quarterly updates, it did not explain how correlations with consequence were handled. Energy Safety marked this issue as ‘Utility sufficiently addressed the required remedy.’ This issue should instead be labeled as ‘Addressed in Areas for Continued Improvement’ in the appropriate section, since it is still an area of active development. (SCE-22-11)

o Energy Safety has modified the language related to SCE-21-11 to indicate it is an area Energy Safety will continue to monitor.”¹⁰

Hence, Energy Safety explicitly acknowledges that this contribution to SPD-2 derived from MGRA’s review of the 2021 quarterly WMP reports.

3.5.2. Discussion

The Commission is tasked with enforcing the statutory requirements for intervenor compensation claims. Among these requirements are that compensation can only be awarded for contributions to a Commission decision or resolution. Rule 17.4(d) clearly states that work prior to the initiation of the proceeding leading to the decision or resolution for which compensation is claimed is also compensable if it is reasonable. As previously discussed, MGRA has been compensated in the past for work outside the scope of a proceeding that later contributed to the proceeding.

The annual Wildfire Mitigation Plan review process does not stop with the issuance of Commission resolutions, but instead continues to produce products that are incorporated both implicitly and explicitly into the subsequent year’s Wildfire Mitigation Plans and reviews. Contributions by intervenors during the period prior to WMP issuance may still add value to the WMP review process. As D.22-09-023 states, the Commission finds that *“as a matter of policy that it is consistent with the objectives of the statute to encourage the effective participation of intervenors in the WMP reviews at Energy Safety,”¹¹* and therefore intervenor contributions to the WMP review process are reasonable. The Commission should therefore determine in its Decision in

¹⁰ SPD-2; p. A-48.

¹¹ p. 4.

this proceeding that reasonable contributions by intervenors to the WMP annual review process should be compensable even if they occur prior to the submission of the WMPs.

4. APPLICANT AND CONTACT INFORMATION

The legal name of the Applicant is the Mussey Grade Road Alliance. The Mussey Grade Road Alliance is an unincorporated association operating as a non-profit 501(c)(4) social welfare organization. MGRA's principal place of operation is Ramona, California. Its address is Post Office Box 683, Ramona, California, 92065.

All correspondence and communication regarding this Application should be addressed to:

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5. SERVICE

A copy of this Application has been served on the service list for R.18-10-005, the Wildfire Mitigation Plan rulemaking.

6. CONCLUSION

MGRA respectfully requests that the Commission accept, evaluate, and approve our claim for intervenor compensation.

Respectfully submitted this 20th day of October, 2022

By: /S/ ***Diane Conklin***

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